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**DEC 1 1 2006**

**OFFICE OF PETITIONS**

In re Application of :  
Richard J. Scherer, et. al. :  
Application No. 10/788,684 : ON PETITION  
Filed: February 27, 2004 :  
Attorney Docket No. 59419US002 :  
:

This is a decision on the petition under 37 CFR 1.137(b), filed July 27, 2006, to revive the above-identified application.

The petition is **DISMISSED AS MOOT.**

A final Office action was issued on December 29, 2005. On February 28, 2006, an amendment in response to the Office action was submitted. The Office issued an Advisory action mailed on March 27, 2006. In response to the Advisory action, petitioner filed on April 27, 2006 a Notice of Appeal with fee and a one (1) month extension of time. Therefore, applicant has two months from the filing of the Notice of Appeal submitted on April 27, 2006 to file an Appeal Brief and fee with extensions of time available under 37 CFR 1.136(a).

Since the Appeal Brief and fee filed on July 27, 2006, was filed within the extendable time period, the Request for Refund filed October 4, 2006, is being treated as a request for a one-month extension of time. Accordingly, this application is not considered abandoned and the instant petition is unnecessary.

This application is being referred to Technology Center Art Unit 2833, for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith  
Petitions Examiner  
Office of Petitions